

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

PRIVATE AIDED DEGREE COLLEGES - SUITS - Implementation of the Hon'ble High Court of A.P., orders dated 18-02-2010 in W.A.No.1692 of 2002 in W.P.No.17121 of 2002 filed by the Kamareddy College of Arts & Science, Kamareddy, Nizamabad - Handing over of the college to the management of the Kamareddy College Educational Society, Kamareddy, Nizamabad District - Orders - Issued.

HIGHER EDUCATION (CE.II-2) DEPARTMENT

G.O.Rt.No. 384

Dated: 08-06 2011.

Read the following:-

1. G.O.Rt.No.1868, Education Department, dated 04-10-1982.
2. G.O.Rt.No.731 Higher Education (CE.II-2) Dept., dt.30-9-2002.
3. Govt.Memo.No.PSP.1189/CE.II-2/2000-7, dated 20-12-2002.
4. From the D.C.E., A.P., Hyd., Lr.Rc.No.233/Admn.I-3/99, dated. 2-9-2003
5. Govt.Memo.No.PSP.1189/CE.II-2/2000-7, dated 2-12-2003.
6. From the D.C.E., A.P., Hyd., Lr.Rc.No.233/Admn.I-3/99, dated 5-10-2005
7. From the High Court of A.P., Judgment dated 18-02-2010 in W.A.No.1692/2002 in W.P.No.17121 of 2002
8. Govt.Lr.No.PSP.1189/CE.II-2/2000, dated 31-07-2010.
9. From the C.C.E., A.P., Hyd., Lr.Rc.No.233/GDC&Cs-3/99, dated 20-12-2010 and 4-05-2011.
10. From the Addl. Advocate General, High Court of A.P., Hyderabad, opinion No.3 of 2011, dated 4-5-2011.
11. Govt.Lr.No.PSP.1189/CE.II-2/2000, dated 05-05-2011.
12. From the Special Officer, Advocate on Record, Supreme Court of India, New Delhi, Lr.No.EDN-5/APLC/JA(KU)/2011, dt.23-05-2011.

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ORDER: -

The Kamareddy College of Arts & Science, Kamareddy, Nizamabad District, was initially started by the Kamareddy College Educational Society, Kamareddy during the year 1964. Consequent to certain disputes, and disturbances which led to unrest among the students and the staff, and keeping in view the interests of the college, the State Government by order in G.O.1st read above, have appointed the District Collector, Nizamabad District, as the Special Officer for the said College.

2. Aggrieved the above, the management has approached the Hon'ble A.P.High Court. Consequent to the decision of the Hon'ble High Court of A.P. in W.A.No.4 of 1989 and keeping in view the observations of the Hon'ble High Court of A.P. in W.A.M.P.No.777 of 2001, dated 19-04-2001, the State Government in G.O.2nd read above, have issued Notification under Section 60 (1) of A.P.Education Act, 1982, for taking over and for acquisition of the management of the said College, pending finalization of the proceedings under section 60 (1) of the A.P.Education Act, 1982, the management of the College of Arts & Science, Kamareddy will continue to be under suspension and the District Collector, Nizamabad, who was appointed as the Special Officer for the College will continue to function as Special Officer for the College under Section 24 (3) of the A.P.Education Act, 1982.

3. In the Govt. Memo. 3rd read above, Government have issued Show Cause Notice to the management of the Kamareddy College Educational Society, Kamareddy, Nizamabad District, to show cause within 30 days as to why the management of College Arts & Science, Kamareddy, should not be taken over by the Government in the public interest. In their explanation dated 21-01-2003, the management represented by its Secretary among other things, has stated that

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there are absolutely no reasons for taking over the management under Section 60 (1) of the A.P.Education Act, 1982 and the society is ready to take over the management of the said college. Further, under the guise of invoking powers under section 60 (1) of the Act cannot take over the management of the college and without any complaint and without valid reasons the Government cannot take over the management inspite of the directions of Hon'ble A.P.High Court. The Secretary, Kamareddy College Educational Society, Kamareddy, Nizamabad District, has requested the Government to drop all further proceeding pursuant to the show cause notice issued under section 60 (1) of the Act and hand over the management of the college forthwith to the society.

4. Aggrieved upon this, the management have filed W.P.No. 13917/85. The learned single judge of Hon'ble Court in its order. dt.31-10-1988, while refusing to quash the impugned notification, gave certain directions to enable the Society to set its house in order and it is left open to the Society to make a representation to the Government with material particulars of its ability to manage the College with no financial difficulties. The learned judge directed that in case the Govt., are satisfied on the basis of the material so placed that the Society would be able to properly manage the Educational Institution by complying certain conditions by the Government. Aggrieved upon this, the Society have filed W.A.No. 4/89 in Hon'ble APHC and the Division Bench of Hon'ble Court by its order dt. 27-09-1995, allowed the appeal and quashing the show cause notice and the impugned notification. The Hon'ble High Court in W.A.M.P.No. 777/2001 dt. 19-4-2001 has disposed of the Writ appeal with certain observations. The Society has again filed W.P. No. 17121/2002 in the A.P.High Court, wherein Govt. have filed counter affidavit. The A.P.High Court in its orders dt.11-10-2002 has allowed the above W.P.

5. The Government in its Memo.No.PSP-1189/CE-II-2/2000-7, dated 20-12-2002 issued a fresh Show Cause Notice to the management of Kamareddy College Educational Society, Kamareddy, Nizamabad to show cause as to why the management should not be taken over by the Government in the public interest. The management while reiterating the contents of their earlier explanation dated 21-01-2003, have requested to the Government to drop all further proceedings pursuant to the show cause notice issued under section 60 (1) of the Act and hand over the management of the college forthwith to the society.

6. The management has filed W.P.No.17121 of 2002 for handing over the management of the college, which was allowed on 11-02-2002. The W.A No.1692/2002 was filed against the order in WP No.17121/2002 and an interim order was granted by the High Court in WAMP No.3166/2002 suspending the order of the learned Single Judge in Writ Petition No.17121/2002 by its orders dated 12.11.2002.

7. The Hon'ble A.P.High Court in its orders dated 18-02-2010 in W.A.No.1692 of 2002 in W.P.No.17121 of 2002 while dismissing the orders dated 12-11-2002, among other things has ordered that -

It is further contended by the appellants herein that the Government is contemplating to take steps to reissue an order to take over the management of the college once again, but however as there is no properly reconstituted society, it was unable to comply with the earlier order. Learned counsel for the first respondent-Society would contend that the society and its management is very much instance and the society is running several educational and other institutions and the Government is also aware of the same and in spite of it, the appellants are evading to comply with the order of this Court and postponing the handing over of the management on some pretext or other. There is nothing on record to show that the society is defunct or that there is no one representing the society as of now. It is

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not difficult for the government to find out as to who is the person or persons in management of the affairs of the society and to hand over the management of the college to the society, if only the Government intended to comply with the earlier directions of this Court. The learned Single Judge, has therefore, rightly observed that the continuance of the appellants herein with the management of the college is illegal and arbitrary and without any basis and their continuance cannot be permitted any longer. The impugned order of the learned Single Judge with the directions contained therein does not therefore all for any interference in this appeal as they are only in the nature of implementing earlier directions of this Court in W.A.No.4 of 1989. The writ appeal is absolutely devoid of any merits.

In the result, the writ appeal is dismissed. There shall be no order as to costs.

8. The Commissioner of Collegiate Education, A.P., Hyd., in his letters 4th, 6th and 9th read above while explaining the above circumstances of the case, have requested the Government to take a suitable decision in pursuance of the Hon'ble A.P.High Court dated 18-02-2010 and pass appropriate orders in the matter.

9. Aggrieved by the above orders of the Hon'ble A.P.High Court dated 18-02-2010, the Government have filed an S.L.P. in the Hon'ble Supreme Court of India. The apex court have admitted the S.L.P vide their Diary No.16515, dated 18-05-2011 against the orders dated 18-02-2010 of Hon'ble A.P.High Court in W.A.No.1692 of 2002 in W.P.No.17121 of 2002 filed by the erstwhile Kamareddy College Educational Society, Kamareddy, Nizamabad District.

10. In compliance of the orders of Hon'ble A.P.High Court dated 18-02-2010 in W.A.No.1692 of 2002 in W.P.No.17121 of 2002, the Government hereby permit the Commissioner of Collegiate Education, A.P., Hyderabad, to hand over the management of erstwhile Kamareddy College of Arts and Science College, Kamareddy, Nizamabad District to the management of Kamareddy Educational Society, Kamareddy, Nizamabad District, subject to outcome of Special Leave Petition pending before the Hon'ble Supreme Court of India vide Diary No.16515, dated 18-05-2011. However, the management of Kamareddy Educational Society, Kamareddy, Nizamabad District shall follow the provisions of A.P.Education Act, 1982 (Act No.1 of 1982) in case of alienation or transfer of the properties of the Society.

11. The Commissioner of Collegiate Education, A.P., Hyderabad, shall take necessary further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

C.R. BISWAL,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The Commissioner of Collegiate Education, A.P., Hyderabad.
The Secretary, Kamareddy College of Educational Society, Kamareddy,
Nizamabad District.

The Accountant - General, A.P., Hyderabad.
The Collector and District Magistrate, Nizamabad District.
The District Treasury Officer, Nizamabad District.

Copy to:-

P.S. to Hon'ble M(H.E).

P.S. to Special Secretary to C.M.

P.S. to Principal Secretary to Government, Higher Education Department.

SF/SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER.